THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.9279 OF 2006

ORAL ORDER:

The 2nd respondent herein, filed O.S.No.34 of 2004 in the Court of the Sub Divisional Magistrate, Rampachodavaram, under Rules 14 and 15 of the A.P. Agency Rules, 1929, seeking permanent injunction against the writ petitioner, and one Boraga Balu Dora, restraining them from interfering with his possession and enjoyment in respect of the schedule land. The petitioner states that he filed his written statement and contesting the suit. Pending the said suit, the 2nd respondent filed a fresh suit being O.S.No.5 of 2005, before the 1st respondent-Agent to Government, Social Welfare, East Godavari District, seeking protection of his rights in respect of the very same land, which was the subject matter of O.S.No.34 of 2004. The petitioner filed counter raising a specific objection that since the dispute between the parties with regard to the same property is pending before the Sub Divisional Magistrate, Rampachodavaram in O.S.No.34 of 2004, the suit is liable to be dismissed as not maintainable. The petitioner contends that in spite of the fact that the said counter was filed on 6.8.2005, the 1st respondent failed to take up the matter, and no orders have been passed so far. In the meanwhile, O.S.No.34 of 2004 was heard and dismissed by order dated 4.4.2006, recording a finding that the plaintiff therein i.e., the 2nd respondent is a non-tribal, and that he was never in possession of the petition schedule land. It was also held that the writ petitioner is actually in possession of the petition schedule land.

In the circumstances, this writ petition is filed seeking a writ of prohibition directing the 1st respondent not to continue the proceedings in O.S.No.5 of 2005, contending *inter alia*, that the action of the plaintiff in initiating fresh proceedings is nothing but abuse of process of the Court.

As noted above, in O.S.No.5 of 2005, the petitioner has already

filed his counter raising a specific objection as to the maintainability of the subsequent suit, which issue is still pending consideration. Hence, I am not inclined to express any opinion as to the objection raised by the petitioner. Instead, I deem it appropriate to direct the 1st respondent to consider the objections raised by the petitioner in his counter and pass appropriate orders in accordance with law, as expeditiously as possible, preferably within a period of six weeks from the date of receipt of a copy of this order.

The writ petition is accordingly, disposed of. No costs.

(G. ROHINI, J.)

7th July, 2006.
Kgr

Issue CC in three days.

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.9279 OF 2006

7th July, 2006.

Between:

Boraga Naganna Dora. .. Petitioner.

And

The Agent to Government, Social Welfare,
East Godavari District, at Kakinada and another. ..
Respondents.